

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MARION DIABATE, on behalf of herself  
and all others similarly situated,  
Plaintiff,**

v.

**MV TRANSPORTATION, INC.,  
Defendant.**

**CIVIL ACTION**

**NO. 14-857**

**ORDER**

**AND NOW**, this 20th day of July, 2015, upon consideration of Plaintiff Marion Diabate's Motion for Conditional Certification of Collective Class Under the FLSA and Certification of a Class Under FRCP 23 [ECF No. 121]; the Defendant MV Transportation, Inc.'s response in opposition thereto [ECF No. 123]; the Plaintiff's reply [ECF No. 124]; and the Defendant's sur-reply [ECF No. 125], and after an oral argument on the motion was held before the Court on July 13, 2015, **IT IS ORDERED** as follows:

- (1) The motion for class certification pursuant to Federal Rule of Civil Procedure 23 is **DENIED**.
- (2) The motion for conditional certification of a collective action pursuant to the Fair Labor Standards Act is **GRANTED IN PART**;
  - (a) the collective action shall be defined as: "**All current and former hourly driver employees of Defendant MV Transportation, Inc. at MV Transportation, Inc.'s Philadelphia, Pennsylvania, facility who worked at any time during the period of February 10, 2011, through the entry of Judgment.**"
  - (b) the motion for conditional certification with respect to driver's aides is **DENIED**;

- (c) the Plaintiff is **DIRECTED** to file a proposed notice form no later than **July 27, 2015**;
  - (d) the Defendant is **DIRECTED** to file and serve upon Plaintiff and the Court any objections to Plaintiff's proposed notice form within seven days of its filing; and
  - (e) the Defendant **SHALL**, within ten days of the date of this Order, deliver to Plaintiff's counsel an electronic listing in Excel spreadsheet format, with each item listed in a separate column, which sets forth the full name, mailing address, last known address (for former employees), last known personal email address (for former employees), employee identification number, job title, pay rate, hire date, and termination date (if applicable) for each member of the conditional collective action.
- (3) Counsel for all parties **SHALL** attend a telephone conference with the Court on **July 23, 2015, at 10:00 a.m.** to discuss future deadlines in this case. Counsel for Plaintiff shall initiate the call to Chambers (267-299-7450) once all counsel is on the line.

**BY THE COURT:**

**/S/WENDY BEETLESTONE, J.**

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**WENDY BEETLESTONE, J.**